THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.25455 of 2006

Dated: 18.12.2006

Between:

M/s.Radhika Cotton Traders

.....Petitioner

and

The Commercial Tax Officer,
Warangal and another

.....Respondents

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.25455 of 2006

ORDER:(per JC, J)

This writ petition is filed with a prayer as follows:

> "……Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in rejecting the appeal filed by the petitioner vide his Proceedings I.No.263/2006-07 dated 13.10.2006 on the ground of non-deposit of requisite amount of disputed tax without issuing any show cause notice or check memo as illegal, arbitrary, high-handed without authority of law and jurisdiction and in violative of principles of natural justice and set aside the same and direct the 2nd respondent to entertain the appeal and decide the same on merits."

Aggrieved by an order of assessment, dated 27.03.2006, the petitioner preferred an appeal to the 2nd respondent under A.P. General Sales Tax Act (for short "the Act") on 13.10.2006. However, the petitioner did not comply with the requirements of making the deposit of the admitted tax and 12.5% of the disputed tax as contemplated under Section 19 of the Act. Therefore, the 2nd respondent herein by the impugned order rejected the appeal. Hence, the present writ petition.

It is stated by the learned counsel for the petitioner that subsequent to the rejection of appeal the requirements of making the deposit as contemplated under Section 19 of the Act has been complied with by the petitioner.

A Division Bench of this Court in W.P.No.27037 of 2005 in similar circumstances took the opinion that in the interest of justice the

appellate authority be directed to take the appeal on record and decide it on merits though there was some delay in complying the requirements of Section 19 of the Act.

Heard the learned Government Pleader.

In the circumstances, we deem it appropriate to dispose of the writ petition at the admission stage setting aside the impugned order, dated 13.10.2006, directing the 2nd respondent to consider the appeal of the petitioner on merits in accordance with law, subject to the condition that the appeal is otherwise maintainable.

Accordingly, the writ petition is disposed of. No order as to costs.

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(J.CHELAMESWAR, J)

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(D.APPA RAO, J)

18th December, 2006.

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